

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL J. JONES,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF
CORRECTIONS et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/1/2023

21-cv-2145 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

In an Order dated January 13, 2023, the Court granted Plaintiff's request for leave to amend his pleading [ECF No. 58]. The Court stated that "the Third Amended Complaint must be filed by March 13, 2023" and "Plaintiff is on notice that this is his last opportunity to amend his pleading." Thereafter, Plaintiff did not file a third amended complaint but did file several letters [ECF Nos. 59, 60, 62]. The Court will grant Plaintiff one **final** opportunity to amend.

IT IS HEREBY ORDERED that any third amended complaint must be filed by **October 2, 2023**. The document must be captioned to indicate that it is a complaint. The Court is attaching a form to this Order, which Plaintiff may use but is not required to use.

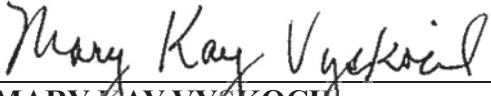
If Plaintiff fails to file a third amended complaint by October 2, 2023, the Second Amended Complaint [ECF No. 31] will remain the operative pleading in this case, and there will be no more opportunities to amend.

If Plaintiff does not amend, Defendants shall re-file their motion to dismiss the Second Amended Complaint by October 6, 2023. Plaintiff shall file his opposition by **November 6, 2023**. Any reply is due November 13, 2023.

If Plaintiff files a third amended complaint by October 2, 2023, Defendants shall respond by October 16, 2023. If Defendants respond with another motion to dismiss, Plaintiff shall file his opposition by **November 20, 2023**. Any reply brief is due December 4, 2023.

SO ORDERED.

Date: September 1, 2023
New York, NY



MARY KAY VYSKOCIL
United States District Judge

The Clerk's Office respectfully is requested to mail this Order and the attached form to Plaintiff at the most recent address he has provided.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

No. _____
(To be filled out by Clerk's Office)

-against-

COMPLAINT
(Prisoner)

Do you want a jury trial?
☐ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a “*Bivens*” action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

| First Name | Middle Initial | Last Name |
|------------|----------------|-----------|
|------------|----------------|-----------|

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency’s custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

| County, City | State | Zip Code |
|--------------|-------|----------|
|--------------|-------|----------|

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

| | | |
|--|-----------|----------|
| First Name | Last Name | Shield # |
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

Defendant 2:

| | | |
|--|-----------|----------|
| First Name | Last Name | Shield # |
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

Defendant 3:

| | | |
|--|-----------|----------|
| First Name | Last Name | Shield # |
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

Defendant 4:

| | | |
|--|-----------|----------|
| First Name | Last Name | Shield # |
| Current Job Title (or other identifying information) | | |
| Current Work Address | | |
| County, City | State | Zip Code |

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

| | | |
|----------------|----------------|-----------------------|
| Dated | | Plaintiff's Signature |
| First Name | Middle Initial | Last Name |
| Prison Address | | |
| County, City | State | Zip Code |

Date on which I am delivering this complaint to prison authorities for mailing: _____